

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**JOSHUA IRA SCOTT,**

**Plaintiff,**

**v.**

**FARMERS INSURANCE COMPANY, INC.,**

**Defendant.**


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**Case No. CIV 05-244-P**

**ORDER and OPINION**

Before the Court is Plaintiff Joshua Scott's Renewed Motion for Judgment as a Matter of Law, Defendant Farmers Insurance Company's Response in opposition, and Plaintiff's Reply thereto. In considering such motion, the Court cannot weight the evidence, consider the credibility of witnesses, or substitute its judgment for that of the jury, and must view the evidence in light most favorable to the non-moving party. Tyler v. Re/Max Mountain States, Inc., 232 F.3d 808, 812 (10th Cir. 2000). Indeed, judgment in favor of the moving party is only appropriate when the evidence "points but one way and is susceptible to no reasonable inferences which may support the opposing party's position." Id. (quoting Finley v. U.S., 82 F.3d 966, 968 (10th Cir. 1997); *see also* Sanjuan v. IBP, Inc., 275 F.3d 1290, 1293 (10th Cir. 2002)). Under this standard, the Court finds that the evidence in this case was such that a reasonable jury could – and did – decide that Plaintiff made a material misrepresentation to the insurance company regarding his claim, thereby breaching an express condition of the policy, and rendering the policy void. The jury verdict is therefore affirmed, and Plaintiff's Motion is DENIED.

IT IS SO ORDERED this 23rd day of March 2006.

  
James H. Payne  
United States District Judge  
Eastern District of Oklahoma